
From: William Fahey [WFahey@fosterswift.com]
Sent: Monday, January 15, 2007 12:04 PM
To: Holmes, Christine A (DLEG)
Cc: Chris Kaye; grentrop@rentropmorrison.com
Subject: Docket No.06-I-3; Oxford Charter Twp's Objections to Petitionfor Incorporation

Christine:

Attached are the Township's Objections in Docket No. 06-I-3, together with Exhibits 1-5. We are also mailing the original and 5 copies to your office.

See you on Thursday.

William K. Fahey
Attorney
Foster, Swift, Collins & Smith, P.C.
313 South Washington Square
Lansing, MI 48933-2193
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10/18/2007

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
BEFORE THE STATE BOUNDARY COMMISSION

In the Matter of the Proposed Incorporation of Territory
in Oxford Charter Township and the Village of Oxford.

Docket No. 06-I-3

OXFORD CHARTER TOWNSHIP'S OBJECTIONS
TO PETITION FOR INCORPORATION

INTRODUCTION

On or about October 13, 2005, attorney Thomas J. Ryan, special counsel to the Village of Oxford, submitted a proposed petition to incorporate the Village of Oxford as a Home Rule City to the Boundary Commission, purportedly containing 346 signatures (see attached Exhibit 1, cover letter). Because of deficiencies in the petition discovered by Boundary Commission Staff, attorney Ryan later requested that the petition not be docketed and that it be returned to him (see attached Exhibit 2).

Evidently, attorney Ryan resubmitted the proposed petition to the Boundary Commission in early 2006. Boundary Commission Staff provided a "pre-review" of the re-submitted petition, and returned the second resubmitted petition to attorney Ryan on June 1, 2006, advising that the Part I map contained with the petition was legally insufficient in several respects, as well as noting other defects in the resubmitted petition (see attached Exhibit 3).

On or about October 2, 2006, attorney Ryan resubmitted the petition for the third time to the Boundary Commission with a new Part I map and other revisions to address the

comments by the Boundary Commission Staff. The Boundary Commission received and docketed this petition as 06-I-3. However, the October 2, 2006, petition contained the identical 346 petition signatures that attorney Ryan had previously submitted to the Boundary Commission on October 13, 2005, with the first defective petition. All of these signatures were obtained in August and September of 2005, before the petition was first submitted to the Boundary Commission Staff for its "pre-review."

ARGUMENT

Apart from any other defects in the petition, it is plain from the documents submitted that none of the persons who signed the October 2, 2006, petition were shown the Part I map that was submitted with that petition. All of the signatures on the petition were obtained prior to September 13, 2005, at a time when the present Part I map did not yet exist. As demonstrated by the face of the present Part I map, this map was not prepared until July 28, 2006. Consequently, none of the persons who signed the petition in August and September, 2005, could have been shown the Part I map.

The Boundary Commission Rules, R 123.25(1), (2) and (5), relevantly provide:

"(1) Part I of incorporation or consolidation petitions or annexation petitions or resolutions shall consist of a map or drawing clearly showing the territory proposed to be incorporated, consolidated or annexed and be constructed by the petitioner in such a way that its maximum size is 8½ " x 13 " with a maximum size of 14 " x 18 "

"(2) In a petition submitted to the public for signature, the map or drawing accompanying the signature sheets shall be of sufficient scale and clarity as to be unambiguous to a layman with respect to the inclusion or exclusion of his own property and the relationship of the petitioned area to identifiable roads, section lines, existing local government boundaries and major geographic features . . .

"(5) Upon filing, each petition shall stand or fall on its own content. Modifications, corrections, deletions or additions to a petition shall not be made except those authorized in subrule (3) and rule 27." (Emphasis added).

This Commission rule was adopted to implement the requirements of MCL 117.6, which relevantly provides:

" . . . Provided further, that before any signatures are obtained on a petition as hereinbefore provided, such petition shall have attached to it a map or drawing showing clearly the territory proposed to be incorporated, detached, or added, and each prospective signer shall be shown such map or drawing before signing the petition. . ." (Emphasis added).

In this case, the petition clearly was "submitted to the public for signature." Therefore, it was required to contain a legally sufficient map "before any signatures [were] obtained." MCL 117.6. It is not sufficient to submit a legally sufficient map after the petition has been signed, since that would violate MCL 117.6 and would defeat the entire purpose of the provisions of R 123.25.

We do not object to the Boundary Commission Staff's efforts to "pre-review" the Village attorney's proposed submissions. The problem here, however, is that the Village obtained the proffered signatures before it sought "pre-review," and before it made substantial changes to the petition and the Part I map to correct the deficiencies in the original submission that the Boundary Commission Staff discovered. Thus, none of the signers were allowed to review a legally sufficient Part I map before they signed the petition.

In prior cases, the Boundary Commission has rejected petitions under substantially identical circumstances. For example, in Boundary Commission Docket No. 96-AP-12, the Boundary Commission rejected a petition because the Part I map was not legally sufficient (see attached Exhibit 4). When the petitioners attempted to resubmit the identical petition with a corrected Part I map in Commission Docket No. 97-AP-2, the Boundary Commission

rejected the subsequent petition as well, on the grounds that "the signers of the petition in Part V were not shown a map that meets the requirements." (See attached Exhibit 5).

Just as in that prior case, the petition signers here were never shown a legally sufficient Part I map, and they certainly were not shown the Part I map contained with the October 2, 2006 petition. As a result, those signatures are ineffective, and this petition must be rejected as legally insufficient.

RELIEF

Based upon the foregoing, Oxford Charter Township respectfully requests that the Boundary Commission reject the petition in Docket No. 06-I-3 as legally insufficient, and enter an Order to that effect.

Respectfully submitted,

FOSTER, SWIFT, COLLINS & SMITH, P.C.
Attorneys for Oxford Charter Township

Dated: January 15, 2007

By:



William K. Fahey (P27745)
313 S. Washington Square
Lansing, MI 48933
Phone: 517-371-8100

RENTROP & MORRISON, P.C.
Co-Counsel for Oxford Charter Township
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LAW OFFICES
THOMAS J. RYAN, P.C.

THOMAS J. RYAN

2055 ORCHARD LAKE ROAD
SYLVAN LAKE, MICHIGAN 48320

TELEPHONE (248) 334-9938
FAX (248) 858-8508

October 13, 2005

RECEIVED
DEPT. OF LABOR & ECONOMIC GROWTH

OCT 17 2005

Ms. Christine A. Holmes, Manager
State of Michigan Boundary Commission
Ottawa Building
611 W. Ottawa - 4th Floor
Lansing, Michigan 48933

OFFICE OF POLICY & LEGISLATIVE AFFAIRS
STATE BOUNDARY COMMISSION

Re: Village of Oxford, Oakland County, Michigan,
Incorporation into a City

Dear Ms. Holmes:

Enclosed please find 346 signatures on Petitions and the supporting documents required to begin the incorporation process with the State Boundary Commission. The Petitioners are requesting the current Village of Oxford residents be allowed to vote on becoming a City.

We look forward to working with the Boundary Commission in the incorporation process.

If you have any questions, please do not hesitate to contact me, I remain,

Sincerely yours,


THOMAS J. RYAN
Special Counsel to the Village of Oxford

TJR:slp

Enclosures (Federal Express)

cc: Joe Young, Village Manager
Tracy Miller, Petitioner



Exhibit 2

JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
LANSING

DAVID C. HOLLISTER
DIRECTOR

November 14, 2005

Mr. Thomas J. Ryan, P.C.
2055 Orchard Lake Road
Sylvan Lake, MI 48320

**RE: Village of Oxford, Oakland County, Michigan
Incorporation into a City**

Dear Mr. Ryan:

This letter is in follow-up to our conversation of October 24, in which I contacted you by telephone to discuss the above material you submitted to the State Boundary Commission. Based upon comments I offered about the contents of this material, you requested that the package be returned to you in its entirety rather than assigning it a commission docket number. You also relayed your intent to resubmit the proposed petition paperwork.

Also, several days after the above conversation, and prior to returning the package to you, the Boundary Commission received a Freedom of Information Act request to provide all public records in its possession "related to any proposal to incorporate a city in the territory currently constituting the Village of Oxford...." I contacted you at the time to inform you of the FOIA request. Although you and I had agreed several days earlier not to assign the material a docket stamp, the Commission is still required by law to comply with the FOIA request. For your information, attached is a copy of my correspondence to the requesting party, Mr. Christopher Kaye.

Please feel free to contact me if you have any questions or wish to discuss any aspect of this correspondence.

Sincerely,

Christine A. Holmes
Manager
State Boundary Commission

Encl.



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
LANSING

ROBERT W. SWANSON
DIRECTOR

June 1, 2006

Mr. Thomas J. Ryan, P.C.
Attorney at Law
2055 Orchard Lake Road
Sylvan Lake, MI 48320

Dear Mr. Ryan:

This letter is in follow-up to our discussion yesterday on the proposed petition to incorporate the Village of Oxford as a home rule city. The documents you recently submitted are herewith being returned based on the following "pre-review" comments:

- a) The Part I map shall be of sufficient scale and clarity (eg the small print on the Part I map is extremely difficult to read, and will be even more difficult to decipher when the map is photocopied or faxed).
- b) The minimum and maximum size of the Part I map is specified in the legal sufficiency checklist and the commission rules.
- c) Any local government unit that is contiguous/adjacent to the area proposed for incorporation shall be identified on the Part I map.
- d) All applicable sections and section lines shall be identified on the Part I map.
- e) The Part I map shall identify major geographic features (eg bodies of water, drainage basins, unusual terrain), especially in the proposed territory.
- f) Roads and streets within the area proposed for incorporation must be identified.
- g) List subdivision plats and condominiums, including phases and number of lots (not lot numbers), attach this to the Part III legal description.
- h) State the square mileage of the area proposed for incorporation (either in Part III or Part V).
- i) Also, please include a recorded document (survey, plat, or other) that provides either a legal description or another identifiable description of the cemetery.

For specific information about the petition requirements and legal sufficiency criteria, please refer to the Legal Sufficiency Checklist, the Boundary Commission Act, the Boundary Commission Rules, and the Home Rule City Act, all of which are enclosed for your convenience.

Comments or suggestions by commission staff are intended only as helpful guidance toward achieving compliance with statutory criteria. This assistance does not guarantee that the petition will be approved for legal sufficiency.

STATE BOUNDARY COMMISSION
OFFICE OF POLICY & LEGISLATIVE AFFAIRS
611 W. OTTAWA • P.O. BOX 30004 • LANSING, MICHIGAN 48909
www.michigan.gov/dleg • (617) 335-3439

Mr. Thomas J. Ryan, P.C.

Page 2 of 2

Please feel free to contact me if you have any questions or wish any clarification.

Sincerely,



Christine A. Holmes
Manager
State Boundary Commission

Phone: 517-335-3439
email: caholme@michigan.gov

Encls

STATE OF MICHIGAN
DEPARTMENT OF CONSUMER & INDUSTRY SERVICES
BEFORE THE STATE BOUNDARY COMMISSION

In the matter of:

Boundary Commission
Docket #96-AP-12

**The proposed annexation of
territory in Pinconning Township
to the City of Pinconning.**

FINDINGS OF FACT AND ORDER

This matter having come before State Boundary Commissioners VerBurg, Rutledge and Walker, and Bay County Boundary Commissioners Murphy and Niemann for adjudication on legal sufficiency in Lansing, Michigan, on January 30, 1997, the Commission made its findings on said date.

THE COMMISSION FINDS THAT:

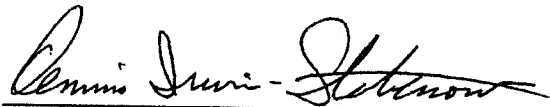
1. On August 28, 1996, a petition, designated Docket #96-AP-12, was filed asking for the annexation of certain territory in Pinconning Township to the City of Pinconning.
2. On January 30, 1997, the State Boundary Commission examined the petition at an adjudicative meeting held in Lansing and found the PART I map incorrectly shows the city limits as filed with Secretary of State. The size and shape of the PART I map is not substantially accurate nor substantially consistent with the PART III legal description.
3. The Commission rejects this petition on the grounds that it fails to conform to the Act and to Commission Rules.
4. On May 22, 1997, at an adjudicative meeting in Lansing, State Boundary Commissioners VerBurg and Rutledge and Bay County Boundary Commissioners Murphy and Niemann approved the draft Findings of Fact and recommend that the Executive Director of the State Boundary Commission sign the Order.
5. Pursuant to Section 8 of Public Act 191 of 1968, as amended, the Commission will return this petition to the primary petitioner, along with a certified copy of its findings.

ORDER

DOCKET #96-AP-12

IT IS ORDERED THAT the petition shall, forthwith, be returned to the primary petitioner, along with a certified copy of these Findings of Fact and Order, which are declared to be operative as of May 22, 1997.

IT IS FURTHER ORDERED THAT a certified copy of these Findings of Fact and Order shall, forthwith, be transmitted to the Clerks of Bay County, Pinconning Township, and the City of Pinconning.

A handwritten signature in black ink, reading "Dennis Irwin-Stabenow", written over a horizontal line.

Dennis Irwin-Stabenow, Executive Director
State Boundary Commission

May 22, 1997
Date

STATE OF MICHIGAN
DEPARTMENT OF CONSUMER & INDUSTRY SERVICES
BEFORE THE STATE BOUNDARY COMMISSION

In the matter of:

Boundary Commission
Docket #97-AP-2

**The proposed annexation of
territory in Pinconning Township
to the City of Pinconning.**

FINDINGS OF FACT AND ORDER

This matter having come before State Boundary Commissioners VerBurg and Rutledge, and Bay County Boundary Commissioners Niemann and Murphy for adjudication on legal sufficiency in Lansing, Michigan, on May 22, 1997, the Commission made its findings on said date.

THE COMMISSION FINDS THAT:

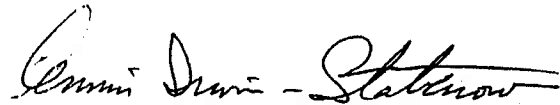
1. On January 24, 1997, a petition, designated Docket #97-AP-2, was filed asking for the annexation of certain territory in Pinconning Township to the City of Pinconning.
2. On May 22, 1997, the State Boundary Commission examined the petition at an adjudicative meeting held in Lansing and found that the signers of the petition in PART V were not shown a map that meets the requirements.
3. The Commission rejects this petition on the grounds that it fails to conform to the Act and to Commission Rules.
4. Pursuant to Section 8 of Public Act 191 of 1968, as amended, the Commission will return this petition to the primary petitioner, along with a certified copy of its findings.

ORDER

DOCKET #97-AP-2

IT IS ORDERED THAT the petition shall, forthwith, be returned to the primary petitioner, along with a certified copy of these Findings of Fact and Order, which are declared to be operative as of May 22, 1997.

IT IS FURTHER ORDERED THAT a certified copy of these Findings of Fact and Order shall, forthwith, be transmitted to the Clerks of Bay County, Pinconning Township, and the City of Pinconning.

A handwritten signature in cursive script, reading "Dennis Irwin-Stabenow", written over a horizontal line.

Dennis Irwin-Stabenow, Executive Director
State Boundary Commission

May 22, 1997
Date